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11 UNITED STATES DISTRICT COURT  
12 CENTRAL DISTRICT OF CALIFORNIA-WESTERN DIVISION

14 GUILLERMO ROBLES, an  
15 individual,

16 Plaintiff,

17 v.

18 THE MELTING POT  
19 RESTAURANTS, INC. d/b/a THE  
20 MELTING POT FONDUE  
21 RESTAURANT, a Florida  
22 corporation; and DOES 1-10,  
23 inclusive,

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27 Defendant.

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15 **COMPLAINT FOR DAMAGES AND**  
**INJUNCTIVE RELIEF:**

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1. **VIOLATIONS OF THE  
AMERICANS WITH DISABILITIES  
ACT OF 1990, 42 U.S.C. §12181 *et  
seq.* [THEMELTINGPOT.COM]**

2. **VIOLATIONS OF THE UNRUH  
CIVIL RIGHTS ACT, CALIFORNIA  
CIVIL CODE § 51 *et seq.*  
[THEMELTINGPOT.COM]**

1 Plaintiff, GUILLERMO ROBLES (“Plaintiff”), alleges the following upon  
2 information and belief based upon personal knowledge:

3 **INTRODUCTION**

4 1. Plaintiff is a legally blind person who requires screen-reading software  
5 to read and access website content using his computer. Plaintiff uses the terms  
6 “blind” or “visually-impaired” to refer to all people with visual impairments who  
7 meet the legal definition of blindness in that they have a visual acuity with  
8 correction of less than or equal to 20 x 200. Some blind people who meet this  
9 definition have limited vision. Others have no vision.

10 2. Plaintiff brings this civil rights action against Defendant THE  
11 MELTING POT RESTAURANTS, INC. d/b/a THE MELTING POT FONDUE  
12 RESTAURANT (“Defendant” or “The Melting Pot”) for its failure to design,  
13 construct, maintain, and operate its website to be fully and equally accessible to and  
14 independently usable by Plaintiff and other blind or visually-impaired people.  
15 Defendant’s denial of full, independent and equal access to its website, and therefore  
16 denial of its products and services offered thereby and in conjunction with its  
17 physical locations, is a violation of Plaintiff’s rights under the Americans with  
18 Disabilities Act (“ADA”) and California’s Unruh Civil Rights Act (“UCRA”).

19 3. Because Defendant’s website, TheMeltingPot.com (the “website” or  
20 “Defendant’s website”), is not equally accessible to blind and visually-impaired  
21 consumers in violation of the ADA, Plaintiff seeks a permanent injunction to cause a  
22 change in Defendant’s corporate policies, practices, and procedures so that  
23 Defendant’s website will become and remain accessible to blind and visually-  
24 impaired consumers.

25 **JURISDICTION AND VENUE**

26 4. This Court has subject-matter jurisdiction over this action pursuant to  
27 28 U.S.C. § 1331 and 42 U.S.C. § 12181, as Plaintiff’s claims arise under Title III of  
the ADA, 42 U.S.C. § 12181, *et seq.*, and 28 U.S.C. § 1332.

5. This court has supplemental jurisdiction over Plaintiff's non-federal claims pursuant to 28 U.S.C. § 1337, because Plaintiff's UCRA claims are so related to Plaintiff's federal ADA claims, they form part of the same case or controversy under Article III of the United States Constitution.

6. This Court has personal jurisdiction over Defendant because it conducts and continues to conduct a substantial and significant amount of business in the State of California, County of Los Angeles, and because Defendant's offending website is available across California.

7. Venue is proper in the Central District of California pursuant to 28 U.S.C. §1391 because Plaintiff and Defendant reside in this District, Defendant conducts and continues to conduct a substantial and significant amount of business in this District, Defendant is subject to personal jurisdiction in this District, and a substantial portion of the conduct complained of herein occurred in this District.

## **PARTIES**

8. Plaintiff, at all times relevant and as alleged herein, is a resident of California, County of Los Angeles. Plaintiff is a blind, visually-impaired handicapped person, and a member of a protected class of individuals under the ADA, pursuant to 42 U.S.C. § 12102(1)-(2), and the regulations implementing the ADA set forth at 28 CFR §§ 36.101 *et seq.*

9. Plaintiff is informed and believes, and thereon alleges Defendant THE MELTING POT RESTAURANTS, INC. is a Florida corporation and has its principal place of business in Tampa, Florida. Defendant is registered to do business in the State of California and has been doing business in the State of California, including the Central District of California. Defendant operates dozens of its fondue restaurants (“The Melting Pot fondue restaurants” or “Defendant’s fondue restaurants” hereinafter) across the nation. Several of these fondue restaurants are in the State of California, and a few of these fondue restaurants are located in the Central District of California. The Melting Pot fondue restaurants constitute places

1 of public accommodation. Defendant's fondue restaurants provide to the public  
2 important goods and services. Defendant's website provides consumers with access  
3 to an array of goods and services including fondue restaurant locators, the ability to  
4 book reservations, fondue product descriptions, fondue, special pricing and other  
5 menu offerings, access to email club membership, The Melting Pot gift cards for  
6 purchase and redemption at physical fondue restaurants, fondue timers, as well as,  
7 many other benefits related to these goods and services.

8 10. The true names and capacities of the Defendants sued herein as DOES  
9 1 through 10, inclusive, are currently unknown to Plaintiff, who therefore sues such  
10 Defendants by fictitious names. Each of the Defendants designated herein as a DOE  
11 is legally responsible for the unlawful acts alleged herein. Plaintiff will seek leave of  
12 Court to amend this Complaint to reflect the true names and capacities of the DOE  
13 Defendants when such identities become known.

14 11. At all relevant times as alleged herein, each and every Defendant was  
15 acting as an agent and/or employee of each of the other Defendants and was acting  
16 within the course and/or scope of said agency and/or employment with the full  
17 knowledge and consent of each of the Defendants. Each of the acts and/or omissions  
18 complained of herein were alleged and made known to, and ratified by, each of the  
19 other Defendants (THE MELTING POT RESTAURANTS, INC. and DOE  
20 Defendants will collectively be referred to hereafter as "Defendant" or "The Melting  
21 Pot").

22 12. Defendant's fondue restaurants are public accommodations within the  
23 definition of Title III of the ADA, 42 U.S.C. § 12181(7). TheMeltingPot.com is a  
24 service, privilege, or advantage of The Melting Pot restaurants.

25 13. Defendant is subject to personal jurisdiction in this District. Defendant  
26 has been and is committing the acts or omissions alleged herein in the Central  
27 District of California that caused injury, and violated rights prescribed by the ADA  
28 and UCRA, to Plaintiff and to other blind and other visually impaired-consumers. A

1 substantial part of the acts and omissions giving rise to Plaintiff's claims occurred in  
2 the Central District of California. Specifically, on several separate occasions,  
3 Plaintiff has been denied the full use and enjoyment of the facilities, goods, and  
4 services of Defendant's website in Los Angeles County. The access barriers Plaintiff  
5 encountered on Defendant's website have caused a denial of Plaintiff's independent,  
6 full and equal access multiple times in the past, and now deter Plaintiff on a regular  
7 basis from accessing Defendant's website. Similarly, the access barriers Plaintiff  
8 encountered on Defendant's website have deterred and impeded Plaintiff from  
9 visiting Defendant's brick-and mortar fondue restaurant locations.

10 **THE AMERICANS WITH DISABILITIES ACT AND THE INTERNET**

11 14. The Internet has become a significant source of information, a portal,  
12 and a tool for conducting business, doing everyday activities such as shopping,  
13 learning, banking, researching, as well as many other activities for sighted, blind and  
14 visually-impaired persons alike.

15 15. In today's tech-savvy world, blind and visually-impaired people have  
16 the ability to use computers and access websites using keyboards in conjunction with  
17 screen access software programs that vocalizes the visual information found on a  
18 computer screen. The technology is known as screen-reading software. In other  
19 words, the screen-reading software program is supposed to verbalize the information  
20 a sighted person would normally see when browsing on a particular website.  
21 Screen-reading software is currently the only method by which a blind or visually-  
22 impaired person may independently access the internet. Unless websites are  
23 designed to be read by screen-reading software, blind and visually-impaired persons  
24 are unable to fully access websites, and the information, products, and services  
25 contained thereon.

26 16. Blind and visually-impaired users of Windows operating system-  
27 enabled computers and devices have several screen reading software programs  
28 available to them. Some of these programs are available for purchase and other

1 programs are available without the user having to purchase the program separately.  
2 Job Access With Speech, otherwise known as "JAWS," is currently the most  
3 popular, separately purchased and downloaded screen-reading software program  
4 available for a Windows computer.

5 17. For screen-reading software to function as designed, the information on  
6 a website must be capable of being rendered into text. If the website content is not  
7 capable of being rendered into text, the blind or visually-impaired user is unable to  
8 access the same content available to sighted users.

9 18. The international website standards organization, the World Wide Web  
10 Consortium, known throughout the world as W3C, has published version 2.0,  
11 Success Criterion, Level A and AA of the Web Content Accessibility Guidelines  
12 ("WCAG 2.0" hereinafter). WCAG 2.0 are well-established guidelines for making  
13 websites accessible to blind, visually-impaired and other users of screen-reading  
14 software programs. WCAG 2.0 has been adopted, implemented and followed by  
15 most large business entities who want to ensure their websites are accessible to those  
16 individuals who use screen-reading software to access their websites and are offered  
17 to the public. Though WCAG 2.0 has not been formally adopted as the standard for  
18 making websites accessible, it is one of, if not the most, valuable resource for  
19 companies to operate, maintain, and provide a website that is accessible under the  
20 ADA to the public.

21 19. Inaccessible or otherwise non-compliant websites pose significant and  
22 common access barriers to blind and visually-impaired persons. Common barriers  
23 encountered by blind and visually impaired persons include, but are not limited to,  
24 the following:

- 25 a. A text equivalent for every non-text element is not provided;
- 26 b. Title frames with text are not provided for identification and  
27 navigation;
- 28 c. Equivalent text is not provided when using scripts;

- 1 d. Forms with the same information and functionality as for sighted
- 2 persons are not provided;
- 3 e. Information about the meaning and structure of content is not
- 4 conveyed by more than the visual presentation of content;
- 5 f. Text cannot be resized without assistive technology up to 200 percent
- 6 without loss of content or functionality;
- 7 g. If the content enforces a time limit, the user is not able to extend,
- 8 adjust or disable it;
- 9 h. Web pages do not have titles that describe the topic or purpose;
- 10 i. The purpose of each link cannot be determined from the link text
- 11 alone or from the link text and its programmatically determined link
- 12 context;
- 13 j. One or more keyboard operable user interface lacks a mode of
- 14 operation where the keyboard focus indicator is discernible;
- 15 k. The default human language of each web page cannot be
- 16 programmatically determined;
- 17 l. When a component receives focus, it may initiate a change in context;
- 18 m. Changing the setting of a user interface component may automatically
- 19 cause a change of context where the user has not been advised before
- 20 using the component;
- 21 n. Labels or instructions are not provided when content requires user
- 22 input;
- 23 o. In content which is implemented by using markup languages,
- 24 elements do not have complete start and end tags, elements are not
- 25 nested according to their specifications, elements may contain
- 26 duplicate attributes and/or any IDs are not unique;
- 27 p. Inaccessible Portable Document Format (PDFs); and,
- 28 q. The name and role of all User Interface elements cannot be

1 programmatically determined; items that can be set by the user cannot  
2 be programmatically set; and/or notification of changes to these items  
3 is not available to user agents, including assistive technology.

4 **FACTUAL BACKGROUND**

5 20. Defendant offers its fondue restaurant's website, TheMeltingPot.com,  
6 to the public. The website offers features which should allow all consumers to  
7 access the goods and services which Defendant offers in connection with its physical  
8 locations. The goods and services offered by Defendant include, but are not limited  
9 to the following, which allow consumers to: find fondue restaurant locations; book  
10 reservations; find fondue product descriptions; find special pricing and other menu  
11 offerings; access email club membership; access The Melting Pot gift cards for  
12 purchase and redemption at physical fondue restaurants; access fondue timers; many  
13 other benefits related to these goods and services; as well as other services.

14 21. Based on information and belief, it is Defendant's policy and practice to  
15 deny Plaintiff, along with other blind or visually-impaired users, access to  
16 Defendant's website, and to therefore specifically deny the goods and services that  
17 are offered and integrated with Defendant's restaurants. Due to Defendant's failure  
18 and refusal to remove access barriers to its website, Plaintiff and visually-impaired  
19 persons have been and are still being denied equal access to The Melting Pot  
20 restaurants and the numerous goods, services, and benefits offered to the public  
21 through TheMeltingPot.com.

22 **Defendant's Barriers on TheMeltingPot.com Deny Plaintiff Access**

23 22. Plaintiff is a blind and visually-impaired person, who cannot use a  
24 computer without the assistance of screen-reading software. However, Plaintiff is a  
25 proficient user of the JAWS screen-reader and uses it to access the internet. Plaintiff  
26 has visited TheMeltingPot.com on several separate occasions using the JAWS  
27 screen-reader.

28 23. During Plaintiff's visits to Defendant's website, Plaintiff encountered

1 multiple access barriers which denied Plaintiff full and equal access to the facilities,  
2 goods and services offered to the public and made available to the public on  
3 Defendant's website.

4 24. Due to the widespread access barriers Plaintiff encountered on  
5 Defendant's website, Plaintiff has been deterred, on a regular basis, from accessing  
6 Defendant's website. Similarly, the access barriers Plaintiff encountered on  
7 Defendant's website have deterred Plaintiff from visiting Defendant's brick-and-  
8 mortar fondue restaurants.

9 25. While attempting to navigate TheMeltingPot.com, Plaintiff encountered  
10 multiple accessibility barriers for blind or visually-impaired people that include, but  
11 are not limited to, the following:

- 12 a. *Lack of Alternative Text* ("alt-text"), or a text equivalent. Alt-text is  
13 invisible code embedded beneath an image or graphic on a website.  
14 For an image or graphic to be accessible to a person using a screen-  
15 reader, it requires that alt-text be coded with each image or graphic so  
16 that screen-reading software can speak the alt-text where a sighted  
17 user sees the image or graphic. Alt-text does not change the visual  
18 presentation, but instead a text box is read to the user when the user  
19 tabs or uses the arrow keys to reach the image with their cursor. The  
20 lack of alt-text on images prevents screen readers from accurately  
21 vocalizing a description of the images. As a result, visually-impaired  
22 The Melting Pot customers are unable to determine what information  
23 is on the website, browse fondue offerings, find fondue restaurant  
24 locations, check out Defendant's fondue specials or email subscription  
25 information, or make any purchases;
- 26 b. *Empty Links That Contain No Text* causing the function or purpose of  
27 the link to not be presented to the user. This can introduce confusion  
28 for keyboard and screen-reader users;

- c. *Redundant Links* where adjacent links go to the same URL address which results in additional navigation and repetition for keyboard and screen-reader users; and
- d. *Linked Images Missing Alt-text*, which causes problems if an image within a link contains no text and that image does not provide alt-text. A screen reader then has no content to present or vocalize to the user as to the function of the link, including information contained in PDFs.

26. Most recently, in 2017, Plaintiff attempted to do business with The Melting Pot on TheMeltingPot.com and Plaintiff encountered barriers to access on TheMeltingPot.com.

27. Despite past and recent attempts to do business with The Melting Pot on its website, the numerous access barriers contained on the website and encountered by Plaintiff, have denied Plaintiff full and equal access to Defendant's website. Plaintiff, as a result of the barriers on The Melting Pot website, continues to be deterred on a regular basis from accessing Defendant's website. Likewise, based on the numerous access barriers Plaintiff encountered on Defendant's website, Plaintiff has been deterred from visiting any of Defendant's brick-and-mortar fondue restaurant locations and from making purchases at such physical fondue restaurant locations.

## **Defendant Must Remove Barriers To Its Website, TheMeltingPot.com**

28. Due to the inaccessibility of TheMeltingPot.com, blind and visually-impaired customers such as Plaintiff, who need screen-readers, cannot independently, fully and equally use or enjoy the facilities, goods and services The Melting Pot offers to the public on its website. The access barriers Plaintiff encountered on Defendant's website have caused a denial of Plaintiff's full, independent and equal access multiple times in the past, and now deter Plaintiff on a regular basis from accessing Defendant's website. In addition, the access barriers

1 Plaintiff encountered on Defendant's website have deterred Plaintiff from visiting  
2 and making purchases at The Melting Pot fondue restaurant locations.

3 29. If TheMeltingPot.com was equally and fully accessible to all, Plaintiff  
4 could independently navigate these websites and complete a desired transaction as  
5 sighted individuals do.

6 30. Through his many attempts to use Defendant's website, Plaintiff has  
7 actual knowledge of the access barriers that make these services inaccessible and  
8 independently unusable by blind and visually-impaired people.

9 31. Because a true commitment to make the website accessible, using the  
10 instructive examples given in the WCAG 2.0 Guidelines, would provide Plaintiff  
11 and other visually-impaired consumers with full and equal access to  
12 TheMeltingPot.com, Plaintiff alleges that The Melting Pot has engaged in acts of  
13 intentional discrimination, including but not limited to the following policies or  
14 practices:

- 15 a. Construction and maintenance of a website that is inaccessible to  
16 visually-impaired individuals, including Plaintiff;
- 17 b. Failure to construct and maintain a website that is sufficiently intuitive  
18 so as to be equally accessible to visually-impaired individuals,  
19 including Plaintiff; and,
- 20 c. Failure to take actions to correct these access barriers in the face of  
21 substantial harm and discrimination to blind and visually-impaired  
22 consumers, such as Plaintiff, as a member of a protected class.

23 32. The Melting Pot therefore uses standards, criteria or methods of  
24 administration that have the effect of discriminating or perpetuating the  
25 discrimination of others, as alleged herein.

26 33. The ADA expressly contemplates the type of injunctive relief that  
27 Plaintiff seeks in this action. In relevant part, the ADA requires:

28 "In the case of violations of . . . this title, injunctive relief shall include an  
order to alter facilities to make such facilities readily accessible to and usable

1 by individuals with disabilities....Where appropriate, injunctive relief shall  
2 also include requiring the . . . modification of a policy. . .”  
3 (42 U.S.C. § 12188(a)(2).)

4 34. Because Defendant’s website has never been fully and equally  
5 accessible, and because Defendant lacks a corporate policy that is reasonably  
6 calculated to cause its website to become and remain accessible, Plaintiff invokes the  
7 provisions of 42 U.S.C. § 12188(a)(2), and seeks a permanent injunction requiring  
8 Defendant to retain a qualified consultant, acceptable to Plaintiff, (“Agreed Upon  
9 Consultant”) to assist Defendant in making its website fully and equally accessible  
10 to all blind and visually-impaired consumers, including Plaintiff, using the WCAG  
11 2.0 Guidelines as a valuable frame of reference. Plaintiff seeks that this permanent  
12 injunction require Defendant to cooperate with the Agreed Upon Consultant to:

- 13 a. Train Defendant’s employees and agents who develop the  
14 TheMeltingPot.com website on accessibility using the WCAG  
15 2.0 guidelines as a valuable and significant resource to assist and  
16 identify examples of the various ways in which Defendant can  
17 achieve and maintain accessibility;
- 18 b. Regularly check the accessibility of Defendant’s website using  
19 the WCAG 2.0 guidelines as an instructive resource for ensuring  
20 content contained on the website is structured in the most fully  
21 and equally accessible way for all users;
- 22 c. Regularly test end-user accessibility by blind or visually-  
23 impaired persons to ensure that Defendant’s website is accessible  
24 using screen-reading software; and,
- 25 d. Develop an accessibility policy that is clearly disclosed on its  
26 websites, with contact information for users to report  
27 accessibility-related problems which will then be investigated by  
28 Defendant and addressed within a reasonable timeframe.

35. If TheMeltingPot.com was accessible, Plaintiff and similarly situated

1 blind and visually-impaired people could independently find information about  
2 where fondue restaurants are located, book reservations, find fondue product  
3 descriptions, special pricing and other fondue menu offerings, access email club  
4 membership, purchase The Melting Pot gift cards for redemption at physical fondue  
5 restaurants, access fondue timers, as well as, many other benefits related to these  
6 goods and services available via Defendant's website.

7 36. Although Defendant may currently have centralized policies for  
8 maintenance and operation of its website, Defendant lacks a clear plan and policy  
9 reasonably calculated to make its website fully and equally accessible to, and  
10 independently usable by, blind and other visually-impaired consumers, including  
11 Plaintiff.

12 37. Without injunctive relief, Plaintiff and other visually-impaired  
13 consumers will continue to be unable to independently use the Defendant's website  
14 in violation of their rights.

15 **FIRST CAUSE OF ACTION**

16 **VIOLATIONS OF THE AMERICANS WITH DISABILITIES ACT OF 1990,**

17 **42 U.S.C. § 12181 *et seq.* [THEMELTINGPOT.COM]**

18 38. Plaintiff re-alleges and incorporates by reference all paragraphs alleged  
19 above and each and every other paragraph in this Complaint necessary or helpful to  
20 state this cause of action as though fully set forth herein.

21 39. Section 302(a) of Title III of the ADA, 42 U.S.C. § 12101 *et seq.*,  
22 provides:

23 “No individual shall be discriminated against on the basis of disability in the  
24 full and equal enjoyment of the goods, services, facilities, privileges,  
25 advantages, or accommodations of any place of public accommodation by any  
26 person who owns, leases (or leases to), or operates a place of public  
27 accommodation.”

28 (42 U.S.C. § 12182(a).)

40. The Melting Pot fondue restaurants are public accommodations within

1 the definition of Title III of the ADA, 42 U.S.C. § 12181(7). TheMeltingPot.com is a  
2 service, privilege, or advantage of The Melting Pot restaurants. TheMeltingPot.com  
3 is a service that is integrated with these locations.

4 41. Under Section 302(b)(1) of Title III of the ADA, it is unlawful  
5 discrimination to deny individuals with disabilities the opportunity to participate in or  
6 benefit from the goods, services, facilities, privileges, advantages, or  
7 accommodations of an entity. (42 U.S.C. § 12182(b)(1)(A)(i).)

8 42. Under Section 302(b)(1) of Title III of the ADA, it is unlawful  
9 discrimination to deny individuals with disabilities an opportunity to participate in or  
10 benefit from the goods, services, facilities, privileges, advantages, or  
11 accommodation, which is equal to the opportunities afforded to other individuals.  
12 (42 U.S.C. § 12182(b)(1)(A)(ii).)

13 43. Under Section 302(b)(2) of Title III of the ADA, unlawful  
14 discrimination also includes, among other things:

15 “[A] failure to make reasonable modifications in policies, practices, or  
16 procedures, when such modifications are necessary to afford such goods,  
17 services, facilities, privileges, advantages, or accommodations to individuals  
18 with disabilities, unless the entity can demonstrate that making such  
19 modifications would fundamentally alter the nature of such goods, services,  
20 facilities, privileges, advantages or accommodations; and a failure to take such  
21 steps as may be necessary to ensure that no individual with a disability is  
22 excluded, denied services, segregated or otherwise treated differently than  
other individuals because of the absence of auxiliary aids and services, unless  
the entity can demonstrate that taking such steps would fundamentally alter  
the nature of the good, service, facility, privilege, advantage, or  
accommodation being offered or would result in an undue burden.”

23 (42 U.S.C. § 12182(b)(2)(A)(ii)-(iii).)

24 44. The acts alleged herein constitute violations of Title III of the ADA,  
25 and the regulations promulgated thereunder. Plaintiff, who is a member of a  
26 protected class of persons under the ADA, has a physical disability that substantially  
27 limits the major life activity of sight within the meaning of 42 U.S.C. §§

12102(1)(A)-(2)(A).

2 45. Furthermore, Plaintiff has been denied full and equal access to  
3 TheMeltingPot.com, has not been provided services which are provided to other  
4 patrons who are not disabled, and has been provided services that are inferior to the  
5 services provided to non-disabled persons. Defendant has failed to take any prompt  
6 and equitable steps to remedy its discriminatory conduct, despite recognizing the  
7 need for it to provide a website in which functionality and content are accessible to  
8 all. These violations are ongoing.

9 46. Pursuant to 42 U.S.C. § 12188 and the remedies, procedures, and rights  
10 set forth and incorporated therein, Plaintiff, requests relief as set forth below.

## 11 **SECOND CAUSE OF ACTION**

### 12 **VIOLATION OF THE UNRUH CIVIL RIGHTS ACT, CALIFORNIA CIVIL** 13 **CODE § 51 *et seq.* [THEMELTINGPOT.COM]**

14 47. Plaintiff re-alleges and incorporates by reference all paragraphs alleged  
15 above and each and every other paragraph in this Complaint necessary or helpful to  
16 state this cause of action as though fully set forth herein.

17 48. California Civil Code § 51 *et seq.* guarantees full and equal access for  
18 people with disabilities to the accommodations, advantages, facilities, privileges,  
19 and services of all business establishments of any kind whatsoever. Defendant is  
20 systematically violating the UCRA, Civil Code § 51 *et seq.*

21 49. Defendant's restaurants are "business establishments" within the  
22 meaning of the Civil Code § 51 *et seq.* Defendant generates significant revenue  
23 from the sale of goods through its TheMeltingPot.com website. Defendant's website  
24 is a service provided by Defendant that is inaccessible to patrons who are blind or  
25 visually-impaired like Plaintiff. This inaccessibility denies blind and visually-  
26 impaired patrons full and equal access to the facilities, goods, and services that  
27 Defendant makes available to the non-disabled public. Defendant is violating the  
28 UCRA, Civil Code § 51 *et seq.*, by denying visually-impaired customers the goods

1 and services provided on its website. These violations are ongoing.

2 50. Defendant's actions constitute intentional discrimination against  
3 Plaintiff on the basis of a disability, in violation of the UCRA, Civil Code § 51 *et*  
4 *seq.*, because Defendant has constructed a website that is inaccessible to Plaintiff,  
5 Defendant maintains the website in an inaccessible form, and Defendant has failed to  
6 take actions to correct these barriers despite representations it is making every effort  
7 to provide an accessible website.

8 51. Defendant is also violating the UCRA, Civil Code § 51 *et seq.* because  
9 the conduct alleged herein violates various provisions of the ADA, 42 U.S.C. §  
10 12101 *et seq.*, as set forth above. Section 51(f) of the Civil Code provides that a  
11 violation of the right of any individual under the ADA also constitutes a violation of  
12 the UCRA.

13 52. The actions of Defendant violate UCRA, Civil Code § 51 *et seq.*, and  
14 Plaintiff is therefore entitled to injunctive relief remedying the discrimination.

15 53. Plaintiff is entitled to statutory minimum damages pursuant to Civil  
16 Code § 52 for each and every offense.

17 54. Plaintiff is also entitled to reasonable attorneys' fees and costs.

18 **PRAYER**

19 **WHEREFORE, Plaintiff prays pray for judgment against Defendant, as  
20 follows:**

21 1. A Declaratory Judgment that, at the commencement of this action,  
22 Defendant was in violation of the specific requirements of Title III of the ADA 42  
23 U.S.C. § 12181 *et seq.*, and the relevant implementing regulations of the ADA, for  
24 Defendant's failure to take action that was reasonably calculated to ensure that its  
25 websites are fully accessible to, and independently usable by, blind and visually-  
26 impaired individuals;

27 2. A preliminary and permanent injunction enjoining Defendant from  
28 further violations of the ADA, 42 U.S.C. § 12181 *et seq.*, and/or the UCRA, Civil

Code § 51 *et seq.* with respect to its website, TheMeltingPot.com;

3. A preliminary and permanent injunction requiring Defendant to take the steps necessary to make TheMeltingPot.com readily accessible to and usable by blind and visually-impaired individuals;

4. An award of statutory minimum damages of \$4,000 per violation pursuant to § 52(a) of the California Civil Code;

5. For attorneys' fees and expenses pursuant to all applicable laws including, without limitation, pursuant to 42 U.S.C. § 12188(a)(1), and California Civil Code § 52(a);

6. For pre-judgment interest to the extent permitted by law;

7. For costs of suit; and

8. For such other and further relief as this Court deems just and proper.

**DEMAND FOR JURY TRIAL**

Plaintiff hereby respectfully requests a trial by jury on all appropriate issues raised in this Complaint.

Dated: February 14, 2017 **MANNING LAW, APC**

By: /s/ Joseph R. Manning Jr., Esq.

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Joseph R. Manning Jr., Esq.

Michael J. Manning, Esq.

Caitlin J. Scott, Esq.

Tristan P. Jankowski, Esq.

Attorneys for Plaintiff